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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,238	10/27/2003	Clifford J. Finn	340543.00003	3744
26710	7590	07/28/2005	EXAMINER	
QUARLES & BRADY LLP 411 E. WISCONSIN AVENUE SUITE 2040 MILWAUKEE, WI 53202-4497			BARNEY, SETH E	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/694,238	Applicant(s) FINN, CLIFFORD J.	
	Examiner Seth Barney	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/31/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7-12, 14-17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,102,016 to Ball et al.

Ball discloses a multi-component fluid mix ratio nozzle for use with a dispensing gun (40), the gun having a fluid passage way for each component (44,44'), the nozzle comprising:

- a base (80) engageable with the multi-component fluid dispensing gun

- at least two hollow extension (64,64') extending downstream from the base,

wherein at least one of the extensions provides a passageway which dispenses at least one of the fluid components of the multi-component fluid without mixing with the other fluid component of the multi-component fluid in order to determine the mix ratio of the fluid components dispensed by the gun. See Figures 2 and 3.

Regarding claim 2, the base is detachably fixable to the gun. See Figures 2 and

3.

Regarding claim 3, the base defines an inlet chamber (46,46') upstream of the extensions, and a wall (42,62) extends through the inlet chamber to prevent mixing of all

of the fluid components passing through the inlet chamber into each of the extensions.  
See Figure 3.

Regarding claim 4, the gun is detachably fixed to the nozzle, and the extensions extend fluid component passageways formed through the gun. See Figure 2.

Regarding claim 7, the nozzle further has a valve (583,583') disposed in one the passageways that controls the flow of at least one fluid component flowing through one of the passageways relative to the flow of another component flowing through another of the passageways. See column 6 lines 36 to 55 and Figures 27-30.

Regarding claim 8, Ball discloses a multi-component dispensing gun comprising:

- a body (40) defining at least two fluid passageways therethrough
- means for adjusting the flow (583,583') of fluid component flowing through one of the fluid component passageways relative to the flow of another fluid component flowing through another of the fluid flow passageways.

Regarding claim 9, the dispensing gun further comprises a multi-component fluid mix ratio check nozzle (60) engaging the gun body and is capable of determining the mix ratio of the fluid components dispensed through the passageways.

Regarding claim 10, the mix ratio check nozzle is detachably fixed to the gun body.

Regarding claim 11, as aforementioned, the nozzle includes at least two hollow extensions, wherein each of the extensions is in fluid communication with one of the passageways formed through the gun body without mixing with the other components of

the multi-component fluid to determine the mix ratio of the fluid components dispensed by the gun.

Regarding claim 12, as aforementioned the nozzle contains a wall.

Regarding claim 14, the means is a valve disposed in the passageway. See Figures 27-30 and column 6 lines 36 to 55.

Regarding claim 15, 16, 17, and 19 the dispensing gun of Ball is capable of being used as a kit, and meets all of the limitations of the claims for the aforementioned reasons.

3. Claims 1-4, 7-13, 15-17, and 19 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,428,530 to Chabria.

Regarding claim 1, Chabria discloses a multi-component fluid mix ratio nozzle for use with a dispensing gun, the gun having a fluid passage way for each component (20,21), the nozzle comprising:

- a base (16) engageable with the multi-component fluid dispensing gun
- at least two hollow extension (26,27) extending downstream from the base,

wherein at least one of the extensions provides a passageway which dispenses at least one of the fluid components of the multi-component fluid without mixing with the other fluid component of the multi-component fluid in order to determine the mix ratio of the fluid components dispensed by the gun. See Figures 4.

Regarding claim 2, the base is detachably fixable to the gun. See Figures 4.

Regarding claim 3, the base defines an inlet chamber (24,25) upstream of the extensions, and a wall extends through the inlet chamber to prevent mixing of all of the

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fluid components passing through the inlet chamber into each of the extensions. See Figure 4.

Regarding claim 4, the gun is detachably fixed to the nozzle, and the extensions extend fluid component passageways formed through the gun. See Figure 4.

Regarding claim 7, the nozzle further has a valve (22,23) disposed in one the passageways that controls the flow of at least one fluid component flowing through one of the passageways relative to the flow of another component flowing through another of the passageways. See column Figure 4.

Regarding claim 8, Chabria discloses a multi-component dispensing gun comprising:

- a body defining at least two fluid passageways therethrough
- means for adjusting the flow (22,23) of fluid component flowing through one of the fluid component passageways relative to the flow of another fluid component flowing through another of the fluid flow passageways.

Regarding claim 9, the dispensing gun further comprises a multi-component fluid mix ratio check nozzle (3) engaging the gun body and is capable of determining the mix ratio of the fluid components dispensed through the passageways.

Regarding claim 10, the mix ratio check nozzle is detachably fixed to the gun body.

Regarding claim 11, as aforementioned, the nozzle includes at least two hollow extensions, wherein each of the extensions is in fluid communication with one of the passageways formed through the gun body without mixing with the other components of

the multi-component fluid to determine the mix ratio of the fluid components dispensed by the gun.

Regarding claim 12, as aforementioned the nozzle contains a wall.

Regarding claim 14, the means is a valve disposed in the passageway. See Figure 4.

Regarding claims 15, 16, 17, and 19 the dispensing gun of Chabria is capable of being used as a kit, and meets all of the limitations of the claims for the aforementioned reasons.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 13, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,428,530 to Chabria as applied to claims 1, 8, and 15 above, and further in view of U.S. Patent No. 2,380,827 to Downs.

Chabria discloses all of the limitations of the claims except for a tubing pinch valve clamped onto a tube in fluid communication with one of the passageways controls the flow of at least one fluid component flowing through the one of the passageways relative to the flow of another fluid component flowing through another of the passageways, wherein the tube feeds one of the fluid component to the one of the passageways. Downs discloses a tubing pinch valve (43). It would have been obvious

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to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Chabria with the clamp of Downs in order to provide flow restriction to a single passageway when desired.

6. Claims 1-4, 7-12, 14-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,462,204 to Finn in view of U.S. Patent No. 5,102,016 to Ball et al.

Finn discloses a dispensing gun having two passageways, valves in each passageway, and an engageable nozzle attaches for mixing two fluids prior to exit of the nozzle. Finn does not disclose a nozzle that maintains the two fluids separate until after leaving the nozzle. As aforementioned, Ball discloses a nozzle meeting all of the limitations of the claims. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the nozzle of Finn with the nozzle of Ball in order to ensure the liquids do not mix prior to the exiting the nozzle.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-4 and 6-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 4,458,831 to Holleran et al. discloses a spray gun have an engageable nozzle. U.S. Patent No. 2,606,072 to Mantle discloses a



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spray gun having two separate passages in which the fluids do not mix until exiting the nozzle. U.S. Patent No. 2,584,178 to Abbott et al. discloses a spray gun having two separate passageways and a tubing clamp. U.S. Patent No. 6,398,077 to Gross et al. discloses dispensing system having valves and separate passageways. U.S. Patent No. 6,345,776 to Hurray et al. discloses a spray gun without tubing having two separate liquid passageways that mix.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri).


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney  
Examiner  
Art Unit 3752

sb



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